



Report to Planning & Zoning Commission

Clay County, Missouri

Case Number **December 11-122 RZ**

Case Type **Rezoning**

Project Name **Walters Rezoning**

Applicants/Owners Jeremy and Angela Walters
 12822 NE 144th Street
 Kearney, MO 64060

Request **Rezoning** from Residential Rural District (R-1) to Agricultural
 (AG)

Application Submittal 2011-10-27

Public Notice Published 2011-11-17

Neighbor Letters Sent 2011-11-18

Report Date 2011-11-28

REPORT AUTHOR(S) Debbie Viviano, Planner
 Matt Tapp, Director

Recommendation APPROVAL



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General Information

Site Location: Approximately 12822 NE 144th Street

Section 31 | Township 53 | Range 31

Site Size: 67.6 ± acres

Existing Landuse & Zoning: Residential Rural District (R-1)

Zoning/Platting History:

Rezoning from A to R-1, 01/17/1974, County Courts Page 502 (Claybrooks

Surrounding Landuse & Zoning:

- North* – Agriculturally zoned land (AG), Wilmar Estates (R-1)
- East* – Agriculturally zoned land (AG), Rolling Hills (AG), Arrowhead Creek (R-1A & AG), City of Kearney [approx. 1 mile]
- South* – Agriculturally zoned land (AG), Shearer Estates (R-1A)
- West* – Agriculturally zoned land (AG), Easter Estates (R-1A), Parnell Estates (R-1A),

Current Conditions:

Existing Property Lines = **YELLOW**



Courtesy Clay County Assessor GIS/Mapping



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Assessment

Jeremy and Angela Walters are requesting **Rezoning** approval from Residential Rural District (R-1) to Agricultural (AG) for 67.6± acres located at approximately 12822 NE 144th Street.

The property owners would like to rezone the property back to Agricultural (AG) in order to request a Conditional Use Permit (CUP) to erect a commercial communications tower, specifically being a high speed wireless service antenna by the associated case Dec.11-123 CUP.

2008 Comprehensive Plan Considerations

The Comprehensive Plan ("Plan") indicates that the subject property is located in the **URBAN SERVICES TIER**, as well as the 1-Mile Urban Coordination Sub-Tier where advise-and-consent should be solicited from the designated city. In an e-mail dated November 22, 2011, the City of Kearney had no comment regarding the rezoning request.

The following tables illustrate two (2) of the most pertinent policies shaped by the Plan. The first (1st) table shows the landuse tiers and corresponding guidelines, and the second (2nd) explains the exceptions to the 20-acre minimum lot size policy directed by the Plan.

Table 4.2 - Land Use Planning Tiers - Presented on the Planning Tier Map

	Natural Resources Tier* (Yellow)	Rural Low-Density Tier* (Green)	Urban Services Tier* (Salmon)
Intent	Support continued agricultural uses in areas beyond near- and long-term urban service extensions.	To accommodate low density rural uses in areas located beyond anticipated city annexation areas.	To promote urban development compatible with the long range growth plans of adjoining cities.
Primary Uses	Agricultural-related uses, natural resources	Agricultural crop lands, livestock grazing, woodlands, grasslands, rural residences	Urban density residential and non-residential
Residential Uses	Rural Density: 1 dwelling unit per 20+ acres.	Rural Density; Rural Residential Density: low-density rural residential development: 1-dwelling unit per 20+ acres, or 1-farmstead dwelling on 5+ acres; Suburban Density: moderate-density development on municipal-level services: up to 4- units per acre.	Suburban Density: moderate-density development on municipal-level services: up to 4- units per acre. Urban Density: development on municipal-level services: greater than 4-units per acre. 20-acre minimum for agricultural and rural residential uses until such time as urban development occurs.
Non-Residential Uses	Farm service related, recreation	Farm service related, recreation	Recreation, limited commercial and industrial consistent with the long range growth plans of adjoining cities.
Minimum Sanitary Sewer Provisions	On-site septic, Community Wastewater Facility if indicated by LESA guidance.	On-site septic, Community Wastewater Facility if indicated by LESA guidance.	Municipal Wastewater Treatment Plant connection for Suburban Density or greater. ⁽³⁾
Zoning Districts	Ag-related zoning districts; Open Space & Parks; non-agricultural zoning if on strict standards (not including Res. Low Density, such as on 3-acre lots).	Ag-related zoning districts; Open Space & Parks; non-agricultural zoning if on strict standards (not including Res. Low Density such as on 3-acre lots).	Open Space & Parks; and residential districts through general industrial (not including Res. Low Density such as on 3-acre lots). AG, Agricultural zoning is appropriate until full range of urban services available.

⁽³⁾ On-site septic allowed for agricultural uses only.

* The **Planning Tier Map** notes a special designation of areas within one mile of each city: "1-Mile Urban Coordination Sub-Tier" where advise-and-consent should be solicited from the designated city. The applicant will be required to submit a letter from the city of jurisdiction concerning the proposal. The Clay County Planning and Zoning Commission may consider the letter as a non binding city recommendation for Clay County to consider in their deliberations.



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Table 4.3 – Option B for Land Use Tier Implementation: Transition Policy Procedures			
	Natural Resources Tier* (Yellow)	Rural Low-Density Tier (Green)	Urban Services Tier (Salmon)
Intent	Exceptions from 20-acre minimum lot size in Ag-districts / phasing in of new regulations		
Density Exceptions for Legal Lots of Record as of the date of Revision of the Land Development Code	Subdivision of land to 5+acre lots, provided that 50% of the subdivided parcel is preserved, such as in an agriculture deed restriction.	Or, subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved.	Subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved, and—for plats within one mile of a city—the city's issues have been addressed.
Other Exceptions	Farmstead** dwellings allowed on 5+acre parcels.		City within one mile may review and recommend other exceptions granted in other tiers, provided a "shadow plat" at urban density is approved.

* The Natural Resources Tier includes an "Urban Services Transition Sub-Tier" area along M-92 and C-Highways that extends where urban development is influenced by the urban highway, yet remains within the Natural Resources Tier designation for purposes of enhanced environmental review and scrutiny.

** A "Farmstead Dwelling" is the original residence built and initially occupied by a farm family, regardless of whether the current household occupant is associated with farming.

Character of the General Neighborhood

The City of Kearney is approximately one (1) mile to the east of the subject property. Wil-mar Estates (R-1) is to the north. Easter Estates (R-1A) is adjacent on the west. Shearer Estates (R-1A) is to the south. Agricultural (AG) zoned land is in each direction of the property.

Code Considerations

The rezoning application was properly noticed in the Kearney Courier on November 17, 2011. Adjacent property owners within the statutory law mandated 1,000 foot distance were notified by means of a certified letter sent November 18, 2011.

The petitioner should fully address the rezoning criteria under Section 151-3.3 (F) of the Clay County 2003 Land Development Code ("LDC") last amended March 8, 2010, which requires the following standards be met with a rezoning application:

1. Whether or not the proposed amendment corrects an error or inconsistency or meets the challenge of a changing condition in the area;
2. Whether or not the proposed amendment is consistent with the *Comprehensive Plan* and the stated purpose and intent of Sec. 151-1.7;
3. Whether or not the proposed zoning district as a whole allows development that is compatible with existing uses and zoning of nearby property;
4. Whether or not the county and other service providers will be able to provide adequate public facilities and services to the subject property, while maintaining adequate levels of service to existing development; and
5. Whether or not the proposed amendment would result in significant adverse impacts on other property in the vicinity of the subject tract or on the environment, including air, water, noise, storm water management, and natural resources.

Outside Agency Review

The Clay County Highway Department has no comments regarding the rezoning.

The Clay County Health Department has given final approval. Public Water Supply District #6 supplies water to the property. The Kearney Fire District serves this property.



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Findings

No opposition has been received as of the date of this staff report.

Reccomendations

It is the recommendation of Staff that the request for **Rezoning** from Residential Rural District (R-1) to Agricultural (AG) District be **approved**, subject to the petitioner addressing all rezoning standards.

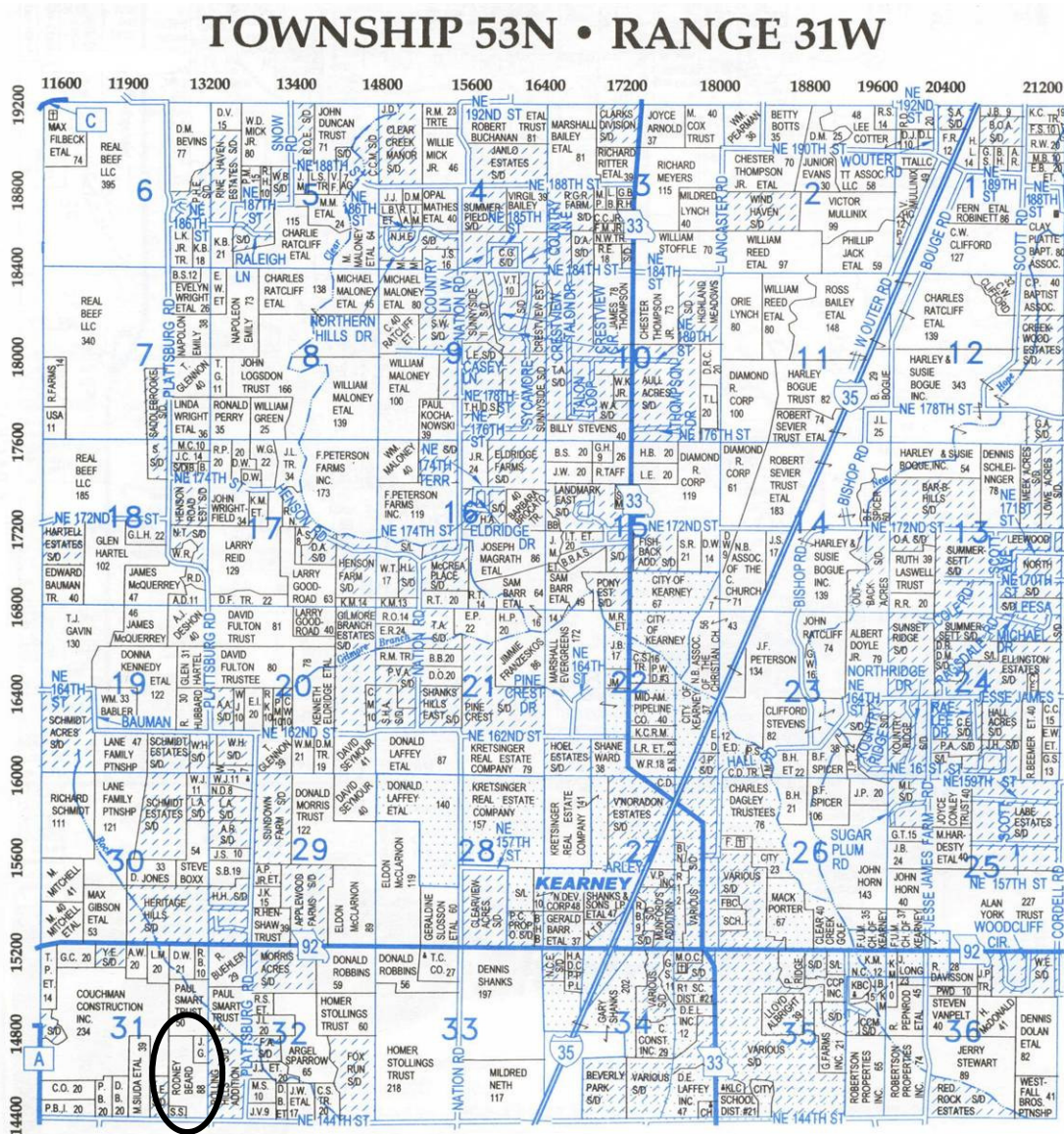


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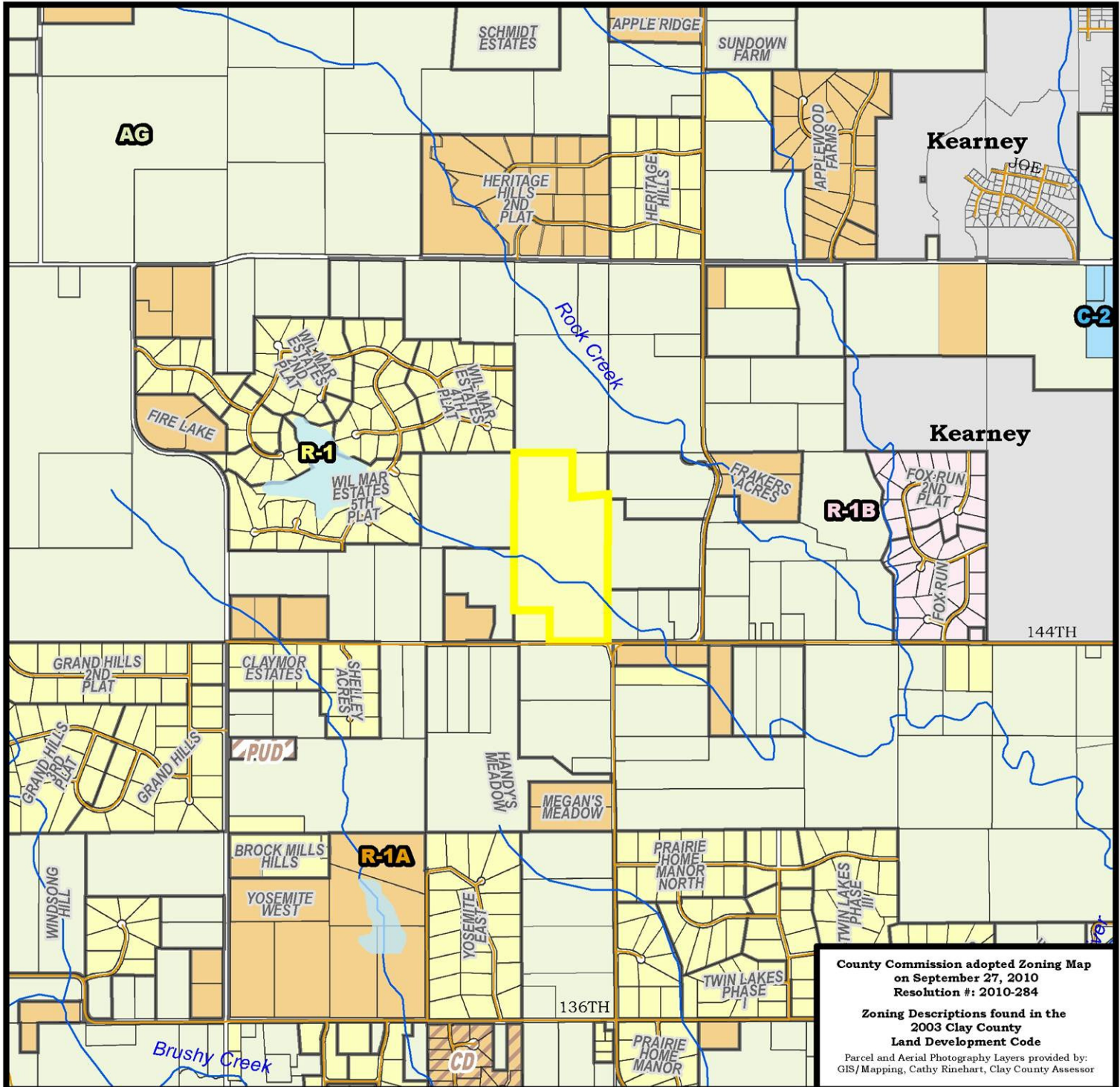
Attachments

Dec. 11-122 RZ – Walters Rezoning Attachment A – Vicinity Map



Dec. 11-122RZ - Walters Wi-fi Tower - 144th St

Attachment B - Existing Conditions Map



County Commission adopted Zoning Map
on September 27, 2010
Resolution #: 2010-284
Zoning Descriptions found in the
2003 Clay County
Land Development Code
Parcel and Aerial Photography Layers provided by:
GIS/Mapping, Cathy Rinehart, Clay County Assessor

Planning & Zoning Department



1 inch = 2,000 feet
1 inch = 0.38 miles

LEGEND

Subject Property

parcel

Streams (EPA)

Railroads

Roads CLASS

Interstates

State Highways

Local Roads

Highway Ramps

Overlay Districts

CD (Conservation District)

PUD (Planned Unit Development)

Subdivisions

County Boundaries

2011 City Limits

Parks

Zoning Districts

AG

R-1

R-1A

R-1B

R-3

C-1

C-2

C-3

I-1

I-2

OP